

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

ESTATE DUTY REFERENCE No 9 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL
and
Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

CONTROLLER OF ESTATE DUTY

Versus

NAYAN JAYANTILAL

Appearance:

MR AKIL KURESHI with MR MANISH R BHATT for Petitioner
NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE J.M.PANCHAL
and
MR.JUSTICE M.S.SHAH

Date of decision: 22/02/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue,

the following question is referred to us for our opinion:-

"Whether the valuation of the self-occupied property of deceased Shri Sarabhai Dahyabhai is required to be made as per the provisions of sec. 7(4) of the Wealth-tax Act, 1957 read with Rule 1BB of the Wealth-tax Rules ?"

2. Sarabhai Dahyabhai expired on 22.10.1975 leaving behind him certain properties including a residential property. The accountable person valued the property on the basis of the rental method. The Assistant Collector of Estate Duty, however, valued the property at a higher amount. The accountable person, therefore, went in appeal. The appellate authority directed the lower authority to apply Rule 1-BB of the Wealth-tax Rules, 1957 prescribing valuation on the basis of rental method. The Tribunal upheld the order of the appellate authority. Hence, this reference at the instance of the revenue.

3. For the detailed reasons given in our decision in Estate Duty Reference No. 1 of 1985, we have held therein that even though sub-section (3) was inserted in Section 36 of the Estate Duty Act with effect from 1.3.1981, the said provision read with Rule 1-BB of the Wealth-tax Rules, 1957 are applicable even to proceedings under the Estate Duty Act where the death took place prior to 1.3.1981, as sub-section (3) of Section 36 of the Estate Duty Act as well as Rule 1-BB of the Wealth-tax Rules, 1957 are procedural provisions and, therefore, applicable also to proceedings pending as on 1.3.1981.

4. We accordingly answer the question in the affirmative i.e in favour of the assessee and against the revenue.

The reference accordingly stands disposed of with no order as to costs.

(J.M. Panchal, J.)

(M.S. Shah, J.)

sundar/-